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OLDER AMERICANS ACT

More Federal Action Needed on Public/Private Elder Care Partnerships

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OLDER AMERICANS ACT: More Federal Action Needed on Public/Private Elder Care Partnerships

Human Resources Division

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July 7, 1992

The Honorable Thomas J. Downey
Chairman, Subcommittee on
Human Services
Select Committee on Aging
House of Representatives

Dear Mr. Chairman:

A relatively new development—private corporations purchasing elder care services for their employees from public sector agencies—is creating a dilemma for the Administration on Aging (AOA) and state and area agencies on aging.[1] In this unusual arrangement, area agencies on aging broker or provide services to corporate employees and their families. These may include enhanced information and referral, case management, needs-assessment surveys, caregiver support groups, and other services.

The purchase of services by private corporations from public entities offers benefit and risk. The benefit is the infusion of private funds into an oversubscribed system of public services for persons 60 years of age and older authorized under the Older Americans Act (OAA). The risk is possible neglect of activities to achieve the public mission under OAA. These activities include the targeting of benefits to socially and economically disadvantaged individuals, state oversight of area-agency-on-aging activity, and preservation of the independence of area agencies on aging to act in the public interest.

In 1990, AOA asked state agencies on aging to develop elder care policies. You asked us to review these policies by

- determining whether states have developed policies that permit elder care contracts between corporations and area agencies on aging and
- assessing whether state policies adequately ensure that their public mission will be preserved when area agencies on aging enter into corporate elder care contracts.

[1]Most area agencies on aging are local or regional government agencies. About one-third of area agencies, however, are private nonprofit agencies that have accepted funding and responsibilities from their state agency on aging for the implementation of Older Americans Act programs in their localities.

AOA Asked States to Develop Policies to Guide Area Agencies in Their Growing Corporate Elder Care Activities

In 1990, AOA was concerned that corporate contracting with area agencies on aging was evolving without explicit federal or state oversight to safeguard the public mission and that potential conflicts would be difficult to resolve without clear policy in this new area. To address these concerns AOA issued a program instruction to request that state agencies on aging develop policies to guide area agency activities in corporate elder care. Under OAA, state agencies are responsible for overseeing area-agency-on-aging activities.[2]

As government budget constraints continue,[3] area agencies on aging have greater incentives to shore up the informal caregiving network of relatives—mostly women—who provide all of the care most elderly individuals receive. As more women enter the work force, constraints on their time may reduce their caregiving and, in turn, raise demand for government services.

Opportunities for area agencies to work with corporations have increased as more corporations have begun to offer elder care assistance to their employees to handle the competing demands of work and caregiving responsibilities.[4] One method by which corporations assist their employees is through a contract with either an area agency on aging or with another agency that subcontracts elder care services through an area agency on aging. AOA has encouraged area agencies to enter into corporate elder care contracts to increase support for informal caregiving and meet the needs of the elderly.

Results in Brief

Responding to an AOA program instruction, 45 states and the District of Columbia have developed policies that permit, and in many cases encourage, area agencies on aging to enter into corporate elder care contracts. In 41 of these states and the District of Columbia, however, state policies do not adequately address key issues included in AOA's program instruction to ensure that the elder care practices of area

[2]Some states and the District of Columbia have no area agencies on aging. In these states, state agencies on aging perform the role of area agencies on aging in arranging or contracting for services and face the same dilemma as area agencies when entering into corporate elder care contracts.

[3]OAA funding to state and area agencies on aging declined in inflation-adjusted terms from fiscal years 1980 to 1990 even as the number of elderly individuals increased. See Administration on Aging: Harmonizing Growing Demands and Shrinking Resources (GAO/PEMD-92-7, Feb. 12, 1992), p. 12.

[4]These new services are sometimes additions to child care policies or parts of broader family-work policies that corporations have developed to address the needs of a changing work force. See Ellen Galinsky and others, The Corporate Reference Guide to Work-Family Programs (New York: Families and Work Institute, 1991) and Andrew Scharlach and others, Elder Care and the Workforce: Blueprint for Action (Lexington, MA, Lexington Books, 1991).

agencies on aging are consistent with the agencies' public mission. Many states, for example, do not provide adequate guidance for ensuring that OAA-funded services will be targeted to individuals in greatest economic or social need. In addition, many states do not specify that corporate elder care contracts should not restrict the ability of state agencies to oversee area agencies or prevent state agencies from getting information they need to carry out these responsibilities. Only four state policies adequately addressed all 10 issues we identified in AOA's program instruction.

We believe that AOA's concerns about protecting the public mission of area agencies are well-founded and that the issues AOA raised in its program instruction were reasonable attempts to address this concern. AOA, however, did not do enough to follow up on the process it started. Inadequacies in state elder care policies result from a lack of clarity in parts of AOA's program instruction, lack of AOA follow-up in assessing state policies, and AOA's uncertainty over its authority to oversee issues related to corporate elder care. Lengthy rulemaking procedures in some states and the unusual nature of this type of public/private partnership also contributed to gaps in state policies.

We believe AOA should (1) assess which state policy guidelines most need strengthening and (2) provide technical assistance to states where needed to strengthen state policy guidelines for area agencies on aging. In addition, the Congress may wish to consider statutory language to clarify AOA's oversight authority regarding corporate elder care partnerships.

Scope and Methodology

To obtain the information requested, we reviewed corporate elder care policies that states had developed as of October 1991 in response to an AOA program instruction.[5] We reviewed draft versions of policies for states that had not finalized their policies and included these draft policies in our analysis.

In reviewing the policies, we first determined which states permit the development of area-agency-on-aging elder care contracts with corporations. Second, we identified 10 issues in AOA's program instruction concerning protection of the public mission and then assessed the extent to which the state policies adequately addressed these issues (see app. I). We also interviewed cognizant officials at AOA and made site visits to collect information on how some states developed their policies and how

[5]AOA's program instruction requested that states develop and submit their final policies to AOA by November 1, 1990.

they expected corporate elder care to fit into their overall mission. In Massachusetts, Ohio, and Oregon, we interviewed officials at state agencies on aging, area agencies on aging, and employers involved in elder care programs. In addition, we reviewed the literature on corporate elder care.

We performed our work from September 1990 through December 1991 in accordance with generally accepted government auditing standards.

AOA Concerns Well-Founded but More Action Needed

Officials from AOA and state and local governments and others involved in area agency activity told us that the development of policies for corporate elder care activities was needed to help prevent potential problems that could adversely affect those served by OAA programs. Because there is little precedent in the area of corporations buying services from public agencies, we believe AOA concerns about potential conflicts with public-mission responsibilities are well-founded.

AOA addressed its concerns in a 1990 program instruction in which it asked state agencies on aging to keep the preservation of OAA mandates regarding oversight, fiscal accountability, and other public-mission responsibilities as their primary duties while encouraging area agencies to pursue corporate elder care. AOA asked for, rather than required, action because it was uncertain about its authority to oversee state and area agency activity in this area.

The action requested in AOA's program instruction was a significant but small first step to avert potential risks to area agencies' public-mission activities. AOA, however, did not systematically follow up on the state policies it requested to ascertain whether states developed final corporate elder care policies, to assess if state policies adequately addressed issues raised in the program instruction, or to provide technical assistance to the states.

Most States Permit, and Many Encourage, Corporate Elder Care Contracts With Area Agencies on Aging

State agencies on aging in 45 states and the District of Columbia have policies that permit area agencies on aging to enter into corporate elder care contracts. Of these states, 28 have policies that specifically encourage area agencies on aging to pursue these arrangements. Five states have policies stating that they will not enter into elder care contracts with corporations.[6]

[6]These states are Alaska, Delaware, New Hampshire, North Dakota, and South Dakota.

State and Area Agencies Encourage Corporate Elder Care Because It Could Help Achieve Their Public Mission

State and area agencies on aging encourage corporate elder care because they believe it could help them achieve their public-mission responsibilities. For example, Oregon's and Pennsylvania's policies state that corporate elder care activities can play an important role in the area agencies' development of comprehensive and coordinated service systems, which is part of the agencies' public mission under OAA.[7] Some area agencies on aging have also stated that corporate elder care has the potential to develop a public/private system of services because of the need for assistance among employees in area companies.

Some state and area agencies see corporate elder care as a potential source of funds that will enable area agencies on aging to provide additional services for disadvantaged clients. Illinois's elder care policy, for example, states that revenues from corporate elder care contracts can be used to subsidize services for disadvantaged individuals. Maryland's policy states that corporate elder care services can enable the state to target more low-income and minority elderly who are not beneficiaries of corporate elder care programs. In addition, some area agency officials believe that elder care contracts can improve their ability to help female caregivers who are increasingly found in the work place rather than the home. One area agency on aging official, for example, told us that OAA outreach to caregivers has shifted from home and volunteer activities to the work place and that a corporate elder care contract helps provide access to caregivers in the work force.

Most State Corporate Elder Care Policies Do Not Adequately Address All Public-Mission Responsibilities

State corporate elder care policies in 41 states and the District of Columbia do not adequately address all the issues raised in AOA's program instruction to help ensure protection of the public mission of area agencies on aging. AOA, however, did not systematically follow up to ascertain the extent to which state policies addressed issues raised in the program instruction or to confirm that policies were finalized. As a result, AOA was not able to determine the extent to which its program instruction was achieving its objective of providing policy guidance to area agencies to minimize conflicts with their public-mission responsibilities.

The most notable problem we found is that many state policies do not adequately address the targeting of services to individuals with the greatest economic or social need (see table 1). Thirteen states also did not adequately address two issues related to state oversight. Only four states

[7]For more information on OAA service coordination issues, see Administration on Aging: More Federal Action Needed to Promote Service Coordination for the Elderly (GAO/HRD-91-45, Apr. 23, 1991).

adequately addressed all the issues raised. In addition, eight states were operating without finalized policies.

Table 1: States Do Not Adequately Address Elder Care Issues in AOA Program Instruction

AOA requested states to address	AOA requested states to address issue by	Number of states not adequately addressing issue[a]
Targeting criteria	Providing criteria which state agency on aging will use to periodically assess area agency on aging performance in targeting individuals with greatest economic or social need, particularly low-income minority individuals	37
Targeting methods	Specifying methods which state agency on aging will use to ensure that area agencies on aging that provide corporate elder care will continue to fully and effectively meet their responsibilities to target their efforts on older individuals with the greatest economic or social need, particularly low-income and minority individuals	20
State oversight of area agencies on aging	Stipulating that corporate elder care contracts should not restrict the ability of state agencies on aging to exercise oversight of area agencies on aging	13
State agency on aging need for elder care information from area agencies on aging	Indicating that corporate elder care contracts should not include withholding of information from the state agency on aging it needs to carry out its oversight of area agencies to ensure the preservation of public-mission activities	13
The use of public funds to supplement services to corporations	Indicating that public funds should not be used to supplement payments made by a corporation under a corporate elder care contract	8
Ability of area agencies to be independent and act in the public interest	Specifying that a corporate elder care contract should not limit an area agency on aging's ability to judge or act in the public interest	7
Confidentiality of client and elder care contract information	Prescribing norms for confidentiality of information in corporate elder care contract activity, such as information in the corporate elder care contract or information identifying individuals receiving services	7
Fiscal controls and accountability	Establishing and implementing appropriate fiscal controls to ensure separate accountability of OAA funds, or other public funds awarded to area agencies on aging, and funds from private, corporate elder care contracts	5
Description of area agency approach to elder care in area plan	Describing in the area agency's Area Plan, or amendment to Area Plan, filed with the state agency on aging, the area agency's plans for, and/or current involvement with corporate elder care	2
Exclusivity of elder care services provided to corporations	Indicating that corporate elder care contracts should not limit area agencies on aging from providing similar services or benefits to other companies or groups in its service area	1

Source: GAO analysis of state policies on corporate elder care developed in response to AOA program instruction.

[a]Includes the 45 states and the District of Columbia that permit area agencies on aging to enter into corporate elder care contracts but not the 5 states that do not permit elder care contracts with corporations.

State Policies Do Not Ensure Targeting of OAA Services to Those With the Greatest Need

Most states did not adequately address the targeting issues AOA raised. In particular, 37 states did not have specific criteria or standards to assess area agency efforts to target OAA services to individuals with the greatest economic or social need[8] and 20 did not describe the method or mechanism they would use to ensure that targeting occurred.

Targeting Criteria

Targeting criteria indicate what the area agency will use as its standard and how the standard will be used to judge the success of targeting practices after implementation of corporate elder care services. Of the 45 states and the District of Columbia that permitted elder care contracts, 37 states did not specify criteria to assess the local agencies' efforts to serve low-income and minority individuals. Among states that did specify criteria, one mandated that area agencies on aging establish standards for response time, caseloads, and waiting lists to ensure that low-income and minority individuals are appropriately served with public funds. Another state's targeting criterion required that the area agency on aging provide OAA services to low-income and minority individuals in the same proportion as the population of low-income and minority individuals in the general population within the service area.

AOA's program instruction did not make clear if state targeting criteria were to apply only to services funded by OAA or were also to include services funded through corporate contracts. Some states developed their policies using the more restrictive interpretation of targeting while others included in their criteria services funded by corporations. We believe that AOA needs to provide state and area agencies on aging additional guidance to clarify the scope of targeting criteria needed in corporate elder care contracts to ensure that the responses are consistent with OAA targeting provisions.

Targeting Methods

Targeting methods indicate how the state agency on aging expects the area agencies on aging to ensure that they achieve their targeting criteria. Twenty states did not describe the method they would use to ensure that area agencies on aging engaged in corporate elder care contracts continue to target those most in need. States that addressed this issue identified

[8]OAA Title III, sec. 302(20) defines "greatest economic need" as the need of an elderly individual resulting from an income at or below the poverty levels established by the Office of Management and Budget. Title III, sec. 302 (21) defines "greatest social need" as the need of an elderly individual caused by noneconomic factors, which include physical and mental disabilities, language barriers, and cultural, social, or geographic isolation, including that caused by racial or ethnic status that restricts an individual's ability to perform normal daily tasks or that threatens the individual's capacity to live independently.

different targeting methods. One state said that it would require area agencies to include in their area plans a narrative description of how elder care agreements address their targeted population. Another state said it would conduct on-site assessments to review records indicating the socioeconomic status of clients to ascertain if targeting criteria are met.

State Policies Do Not Ensure Protection of Other Public-Mission Responsibilities

Corporate elder care policies in many states do not ensure the preservation of other public-mission issues included in AOA's program instruction. Thirteen state policies do not include language stipulating that corporate elder care contracts should not restrict the ability of states to exercise appropriate oversight of area agencies on aging. Thirteen state policies also do not indicate that corporate elder care contracts should not restrict information that state agencies on aging need to carry out their oversight responsibilities to ensure the preservation of public-mission activities. Eight states do not indicate that public funds should not be used to supplement payments made by a corporation under a corporate elder care contract.

A number of states also do not adequately address issues ranging from maintaining the ability of area agencies on aging to act in the public interest to establishing and implementing fiscal controls to separately account for OAA and private funds. We believe that state policies that do not adequately address all of these issues leave area agencies on aging without sufficient guidance to protect public-mission responsibilities when engaged in corporate elder care. Only four states—Arkansas, New York, Oregon, and Texas—adequately addressed all the AOA elder care issues we identified.[9]

Some States Have Not Finalized Their Elder Care Policies

Eight states had not finalized their elder care policies as of October 1991. Some states had not finalized their policies partly because they were awaiting AOA responses to drafts. Officials in one state said that its policy was not finalized because of a lack of clarity in the AOA program instruction. Officials in some states also said they had not finalized their policies because of lengthy rulemaking processes in their state. Until state policies are approved as final they do not provide state agencies on aging with standards and guidelines for which area agencies on aging can be held accountable for protecting their public-mission responsibilities. AOA did not systematically review finalized state policies, or respond to draft

[9]New Mexico's draft policy also addressed all issues.

policies with comments and assistance that some states said they needed to finalize policies.

Conclusions

AOA and state and area agencies on aging are addressing issues in balancing the benefit and risk of area agency contracts with corporations to provide elder care services to their employees. In 1990, AOA issued a program instruction asking state agencies on aging to develop policies to achieve two objectives—develop public/private partnerships to increase elder care services and protect public-mission objectives of area agencies on aging. AOA, however, was uncertain about its authority to oversee area agency contracts for corporate elder care. Forty-five states and the District of Columbia developed policies to permit contracts for corporate elder care, but only four states adequately addressed all the issues in AOA's program instruction to protect the public-mission objectives of area agencies. Five states do not permit corporate elder care contracts with area agencies on aging. Most often, state policies inadequately addressed targeting of program benefits to disadvantaged elderly persons. AOA neither systematically followed up on policies submitted to ascertain the extent to which states adequately addressed issues nor assisted states in further developing policies when it identified inadequacies. Lengthy rulemaking procedures in some states and the unusual nature of this type of public/private partnership also contributed to states' not addressing all public-mission responsibilities. As a result, many states have gaps in their elder care policies that increase the risk of potential conflicts between private service provision and area agency public-mission objectives.

Matter for Congressional Consideration

The Congress may wish to consider amending the Older Americans Act to clarify that AOA has authority to oversee state and area agency on aging activities in corporate elder care partnerships and to define the agencies' responsibilities for ensuring preservation of public-mission objectives when engaged in such activities.

Recommendations

We recommend that the Commissioner of AOA

- assess which state policy guidelines most need strengthening and
- provide technical assistance to help state agencies on aging develop corporate elder care policies that better address public-mission responsibilities, especially as regards ensuring the targeting of benefits to socioeconomically disadvantaged persons.

We discussed the contents of this report with AOA officials who agreed with our conclusions and recommendations. As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time we will send copies of this report to other congressional committees, the Secretary of Health and Human Services, the Commissioner of AOA, and directors of state agencies on aging. We will also make copies available to other interested parties on request.

If you have any questions about this report, please call Jane L. Ross at (202) 512-7215. Other major contributors are listed in appendix II.

Sincerely yours,

Lawrence H. Thompson

Lawrence H. Thompson
Assistant Comptroller General

Contents

Abbreviations

AOA	Administration on Aging
OAA	Older Americans Act

Methodology for Analysis of State Policies on Corporate Elder Care

The Administration on Aging (AOA) issued Program Instruction 90-06 in April 1990. The program instruction requested state agencies on aging to develop policies to encourage area agencies on aging to enter into corporate elder care contracts and to ensure protection of their public-mission activities when area agencies provide services to corporate employees. We obtained copies from AOA of the policies it received from state agencies and we obtained copies of some policies directly from states where AOA either had not received a policy or for which AOA had only a draft policy.

We identified 10 issues in AOA's program instruction that AOA asked state agencies on aging to address for ensuring protection of area agencies' public-mission activities when engaged in corporate elder care. We coded state policy responses as inadequate if a policy did not mention an issue at all or if the policy only provided general assurances rather than describing a specific type of action that a program administrator should take to ensure preservation of public-mission activities. We coded state policy responses as adequate if the wording provided guidance that was specific enough for an administrator either to implement or to monitor program activities. We did not, however, evaluate the content of state policy responses to assess if they were likely to achieve their stated objectives because this was beyond the scope of our work.

In the coding process, we tried to give states the benefit of the doubt. If we made errors, they were on the side of coding responses as adequate. Therefore, the data we are reporting may overstate the degree to which state agencies adequately addressed the 10 issues we identified in AOA's program instruction.

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